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HOUSE BILL 870

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO FOREST CONSERVATION; AMENDING AND ENACTING
SECTIONS OF THE NMSA 1978 TO PROVIDE FOR IMPROVED TIMBER
HARVEST AND FOREST MANAGEMENT PRACTICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 68-1-1 NMSA 1978 (being Laws 1939,
Chapter 141, Section 1) is amended to read:

"68-1-1. PROTECTION OF GROWING TIMBER--PUBLIC POLICY. --
[~~That~~] The protection of growing timber and young growth from
fire hazard and the prevention of logging practices which will
increase fire hazard and prevent the maintaining of favorable
conditions of water flows, water quality and wildlife habitat
are hereby declared to be a public policy of [~~the State of~~]
New Mexico. "

Section 2. Section 68-1-2 NMSA 1978 (being Laws 1939,

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1 Chapter 141, Section 2, as amended) is amended to read:

2 "68-1-2. [~~LOGGING OPERATIONS~~] FIRE PREVENTION--RESERVING
3 YOUNG TREES AND SEED TREES--FIRE LINES-- SILVICULTURAL
4 PRACTICES--RIPARIAN PROTECTION--WILDLIFE PROTECTION--PEST

5 CONTROL--SIGNIFICANT SITES.--Any person, firm, association or
6 corporation cutting saw-timber species from lands within the
7 state shall:

8 [~~(a)~~] A. take all reasonable precaution to prevent
9 the starting of fires and promptly suppress all fires that may
10 be started on timber land before, during or after cutting;

11 [~~(b)~~] B. take all reasonable precaution in felling
12 trees on the area being cut and to reserve uncut sufficient
13 trees of seed-bearing size on the land being cut over to
14 [~~insure~~] ensure natural reforestation [~~as follows~~], water
15 flows, water quality and wildlife habitat;

16 [~~(c)~~] C. reserve and leave uncut in operations
17 cutting logs for lumber and timber manufacturing purposes all
18 trees measuring twelve inches or less in diameter outside bark
19 at a point four and one-half feet from the ground, and, in
20 addition, leave not less than two live, wind-firm seed trees
21 per acre measuring seventeen inches or more in diameter
22 outside bark at a point four and one-half feet from the
23 ground; provided that in operations removing trees twelve
24 inches or less in diameter outside bark at a point four and
25 one-half feet from the ground for nonlumber manufacturing

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1 purposes such as railroad ties, mine props, stulls, poles or
2 wood for products manufactured from pulp or any combination
3 thereof, trees required to produce said items may be cut to a
4 minimum diameter of five inches outside bark at a point four
5 and one-half feet from the ground, but in such cuttings there
6 shall be reserved and left uncut not less than four live,
7 wind-firm seed trees per acre measuring seventeen inches or
8 more in diameter outside bark at a point four and one-half
9 feet from the ground; provided, further, however, that in the
10 event that no live, wind-firm trees measuring seventeen inches
11 or more in diameter outside bark at a point four and one-half
12 feet from the ground exist on said area at the time of
13 cutting, then the largest live, wind-firm trees available on
14 said area shall be left for seed trees in the number
15 prescribed above for operations cutting logs for lumber and
16 timber manufacturing purposes and for operations removing
17 trees twelve inches or less in diameter for nonlumber
18 manufacturing purposes respectively; provided, however, on
19 spruce type areas or mixed spruce and fir type areas, an
20 adequate stand of young growth shall be reserved and left
21 uncut or, if such young growth is not present, there shall be
22 reserved and left uncut not less than five percent of the
23 coniferous trees, a substantial portion of which shall be of
24 seed-bearing size; such trees may be reserved in long corners
25 of creeks, across valleys, along ridges or natural firebreaks

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1 or in isolated settings of timber;

2 [~~(d)~~] D. construct fire lines by piling and
3 burning slash on a strip fifty feet wide on each side of main
4 hauling roads;

5 E. refrain from clear-cutting, seed-tree harvest
6 and high-grade timber harvest. For purposes of this
7 subsection:

8 (1) "clear-cutting" means the removal of all
9 trees from the area being cut;

10 (2) "seed-tree harvest" means the removal of
11 all trees from the area being cut with the exception of a
12 limited number of trees to provide seed; and

13 (3) "high-grade timber harvest" means the
14 removal of only those trees with the highest economic value;

15 F. limit forest canopy openings to one-half acre
16 or less;

17 G. obtain from the state forester identification
18 of all late successional and old growth stands and employ
19 silvicultural practices that:

20 (1) maintain the characteristics of those
21 stands, including retention of sufficient numbers of large,
22 live trees, standing dead trees and large down logs to provide
23 habitat for species dependent upon that habitat; and

24 (2) ensure that post-harvest residual stands
25 consist of no less than sixty square feet basal area per acre

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1 and that no less than fifty percent of the post-harvest
2 residual stand is in the largest pre-harvest size class;

3 H. refrain from timber harvest and road building
4 on unstable soils;

5 I. refrain from timber harvest or road building
6 within riparian zones. For purposes of this subsection,
7 "riparian zone" means an area adjacent to definable stream
8 channels or acequias equivalent in width to the one hundred
9 year flood plain;

10 J. refrain from skidding logs across streams or
11 watercourses or through vernal pools or wetlands;

12 K. incorporate wildlife management practices so as
13 to retain or restore habitat features necessary for native
14 wildlife on both the stand and landscape levels; undertake
15 surveys for rare, threatened and endangered species if harvest
16 will occur in the potential habitat of those species; and
17 refrain killing, obtaining possession of, harming, harassing
18 or adversely modifying the occupied habitat of any species
19 listed by the federal or state government as a threatened or
20 endangered species;

21 L. use nonchemical pest control when possible;
22 determine and allow for natural variation of pest cycles; and
23 refrain from poisoning vertebrates; and

24 M. refrain from damaging or interfering with sites
25 of archaeological, cultural or historical significance and

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1 incorporate measures to protect those sites; undertake survey,
2 recording, assessment and establishment of areas set aside for
3 protection. "

4 Section 3. A new section of Chapter 68, Article 1 NMSA
5 1978 is enacted to read:

6 "[NEW MATERIAL] TIMBER HARVEST PLANS--CITIZEN
7 PARTICIPATION. --

8 A. All persons engaging in timber harvest
9 operations on state and private land, other than noncommercial
10 Christmas tree harvest and noncommercial firewood gathering,
11 shall submit to the forestry division of the energy, minerals
12 and natural resources department a timber harvest plan
13 prepared by a professional forester or timber operator.

14 B. A timber harvest plan shall describe the
15 silvicultural techniques to be used in the timber harvest
16 operation and how the operation will comply with the
17 provisions of Sections 68-1-1 and 68-1-2 NMSA 1978. A timber
18 harvest plan shall specify measures to protect water quality,
19 late successional and old growth forests and threatened,
20 endangered and rare species on harvested acreage.

21 C. The forestry division shall make timber harvest
22 plans available to the public for review and shall provide
23 public notice of the availability of timber harvest plans.
24 Any person or government entity may appeal to the forestry
25 division for a stay of a timber harvest operation that is out

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1 of compliance with its timber harvest plan."

2 Section 4. A new section of the Forest Conservation Act
3 is enacted to read:

4 "[NEW MATERIAL] RESTORATION AND MANAGEMENT PROGRAMS. -- The
5 economic development department shall establish joint programs
6 with the forestry division of the energy, minerals and natural
7 resources department to promote ecological restoration and
8 multiple use management of private and state forest lands,
9 including training programs for timber operators and
10 assistance to land owners and timber operators in preparation
11 of timber harvest plans."